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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In re Applications of)	MM Docket No. 93-265
)	
PINE TREE MEDIA, INC.)	File No. BR-900817UF
)	
For Renewal of License of)	
Station KARW)	
Longview, Texas)	

To: Administrative Law Judge
John M. Frysiak

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MASS MEDIA BUREAU'S
OPPOSITION TO MOTION TO RECEIVE EXHIBIT

1. On April 7, 1995, Praise Media, Inc. (Praise) filed a motion to receive exhibit. The Mass Media Bureau hereby opposes Praise's motion.

2. Praise moves to have marked for identification and received into evidence as "Praise Exhibit No. 13" a two page unsworn statement of Eugene Washington, the estranged husband of Janet Washington. Eugene Washington is presently incarcerated and therefore unavailable to testify in this proceeding. Praise offers the statement to reinforce testimony of Janet Washington on "the relationship with Ray Lee Williams" and the control and ownership of KARW. In support of its motion, Praise cites Rule 804(b)(5) of the Federal Rules of Evidence which provides that where the declarant is unavailable, certain statements are not excluded by the hearsay rule.

3. Rule 804(b)(1) through (b)(4) specify the following

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exceptions to the hearsay rule where the declarant is unavailable; (1) former testimony which was subject to cross-examination; (2) statements made under a belief of impending death; (3) statements against interest; and (4) statements of personal and family history. In each of these instances there is strong circumstantial evidence that the declarant is telling the truth. Rule 804(b)(5) provides that statements not specifically covered by Rule 804 may still be within its ambit where there are "equivalent circumstantial guarantees of trustworthiness."

4. Here, however, there is no equivalent guarantee of trustworthiness from the circumstances surrounding Eugene Washington's statement. In fact, the circumstances surrounding his statement compel a contrary conclusion. Eugene Washington is a convicted felon who is currently in jail. His trustworthiness is inherently suspect. Also, Janet Washington is the mother of his child. Under these circumstances, it would be improper to permit Praise Media Ex. 13 into evidence without a sponsoring witness.

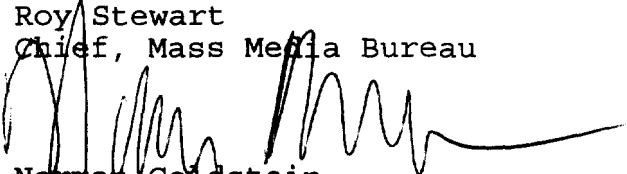
5. Rule 804(b)(5) also requires that the evidence, to qualify as an exception, be "more probative on the point for which it is offered than any other evidence which the proponent can procure through reasonable efforts." Here, Praise offers Eugene Washington's statement as evidence that he "has relinquished any and all control and ownership of the assets

pertaining to station KARW to Janet Washington and her son, Amir Washington." This fact, however, is already established in the record by more probative evidence. See Tr. 71, where the pertinent portion of Eugene Washington's "Power of Attorney," dated July 22, 1994, authorizing Janet Washington "to operate and conduct the business of Praise Media" was read into the record. Moreover, the record contains testimony by Janet Washington that Eugene Washington has executed a quit claim deed renouncing all interest in the station's property. (Tr. 65). A copy of the quit claim deed would be more probative on the issue than an unsworn statement by Eugene Washington.


6. Finally, Rule 804(b)(5) requires that, to qualify for the exception, the statement be offered as evidence of a material fact. To the extent that Praise Media offers Eugene Washington's statement to establish "the relationship with Ray Lee Williams," Eugene Washington's statement must be rejected because it relies on unsubstantiated charges that Williams was embezzling funds from the station. These allegations are not material to the issues in this proceeding. They are also unfair to Williams who has no opportunity to defend himself.

7. In sum, the Bureau submits that Praise Media's motion to receive exhibit should be rejected.

Respectfully submitted,
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April 18, 1995

CERTIFICATE OF SERVICE

Michelle C. Mebane, a secretary in the Hearing Branch, Mass Media Bureau, certifies that she has on this 18th day of April 1995, sent by regular United States mail, U.S. Government frank, copies of the foregoing "Mass Media Bureau's Opposition to Motion to Receive Exhibit" to:

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